

Unsealed 8/27/03

~~perp~~

NIGHT BOX  
FILED

SS AUG 15 2003

CLARENCE MADDOX  
CLERK, U.S.D.C. / S.D.F.L. / MIA

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 02-60250-CR-MORENO

UNITED STATES OF AMERICA

vs.

DOMINGO GARCIA,  
Defendant.

UNITED STATES' MOTION UNDER SEAL PURSUANT  
TO U.S.S.G. § 5K1.1 FOR A DOWNWARD DEPARTURE FROM THE  
GUIDELINE RANGE APPLICABLE TO DEFENDANT DOMINGO GARCIA

The United States, through the undersigned Assistant United States Attorney, respectfully moves this Court, pursuant to Section 5K1.1 of the United States Sentencing Guidelines for a downward departure from the sentencing guideline range applicable to defendant Domingo Garcia, in order to reflect the defendant's substantial assistance in the prosecution of others. In support of this motion, the United States avers as follows:

1. Defendant Domingo Garcia was charged in a two-count indictment charging him with violations of Title 21, United States Code, Sections 846 and 841(a)(1).
2. On June 4, 2003, defendant Domingo Garcia, pursuant to a written plea agreement, entered a plea of guilty to Counts One and Two of the indictment filed against him. These counts charged the defendant with knowingly and intentionally conspiring to possess five or more kilograms of cocaine with the intent to distribute it and attempting to possess five kilograms or more of cocaine

12  
MH

with the intent to distribute it, in violation of Title 21, United States Code, Sections 846 and 841(b)(1)(A). Pursuant to the plea agreement entered into by the defendant with the United States, the defendant agreed to cooperate fully with the United States in the prosecution of others.

3. The defendant assisted the government in the prosecution of his co-defendants, Juan Rodriguez-Ferreira and Juan Castro-Ballista, by providing complete and truthful information concerning his knowledge of Roman's criminal activities and being prepared to testify against them at trial and sentencing. Based on Garcia's cooperation and the threat of his testimony, Rodriguez-Ferreira and Castro-Ballista entered pleas of guilty and were held responsible for historical amounts of cocaine they had distributed. Garcia also worked in an undercover capacity to purchase five kilograms of cocaine from Rodolfo Blanco, Sonia Soto, and Cesar Palacio-Villegas. They were indicted and entered pleas of guilty in Case No. 02-20826-CR-JORDAN. Garcia has continued to cooperate proactively and has one matter in which he is still active. To preserve the integrity of that investigation, the United States and the defendant request that this motion be placed under seal until further order of the Court.

4. Based on the amount of narcotics involved and his criminal history category, the defendant's total offense level is 25 with a criminal history category of I. PSI ¶¶ 17-27. The guideline imprisonment range is 57 to 71 months. PSI ¶ 68.

5. For the reasons stated above, the United States believes the defendant has provided substantial assistance in the prosecution of others and that his guideline sentence should be reduced to reflect that fact.


CONCLUSION

**WHEREFORE**, the United States respectfully requests pursuant to U.S.S.G. § 5K1.1 that this Court depart downward from the applicable guideline range in accordance with the government's evaluation of the nature and significance of the defendant's substantial assistance which has been presented herein and will be further presented at the sentencing hearing, and that the Court seal this motion until further order of the Court.

Respectfully submitted,

MARCOS DANIEL JIMENEZ  
UNITED STATES ATTORNEY

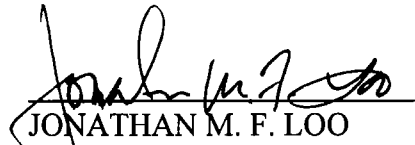
By:

  
JONATHAN M. F. LOO  
Assistant United States Attorney  
Court I.D. No. A5500272  
99 N.E. 4th Street, 7th Floor  
Miami, Florida 33132-2111  
(305) 961-9272  
(305) 530-7976 (fax)

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing United States' Motion Under Seal Pursuant to U.S.S.G. § 5K1.1 For a Downward Departure From The Guideline Range Applicable To Defendant Domingo Garcia was hand delivered this 18<sup>th</sup> day of August, 2003 to:

- 1) Nathan Diamond, Esquire, 1221 Brickell Avenue, Suite 1220, Miami, Florida 33131.
- 2) Georgann Stanley, U. S. Probation Officer, 299 E. Broward Boulevard, Room 409, Fort Lauderdale, Florida 33301-5506

  
JONATHAN M. F. LOO  
Assistant United States Attorney

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
Case No. 02-60250-CR-MORENO

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DOMINGO GARCIA,

Defendant.

*Party Filing Matter Under Seal*

ORDER RE: SEALED FILING

Name: U.S. ATTORNEY'S OFFICE

JONATHAN M.F. LOO, AUSA

Address: 99 NE 4<sup>th</sup> Street, Miami, FL 33132

Telephone: (305) 961-9272

On behalf of (select one):

☒ Plaintiff

☐ Defendant

Date sealed document filed:

AUGUST 18, 2003

If sealed pursuant to statute, cite statute:

If sealed pursuant to previously entered protective order, date of order and docket entry:

The matter will remain sealed until:

☐ Conclusion of Trial

☐ Arrest of First Defendant

☐ Case Closing

☐ Conclusion of Direct Appeal

☒ Other

FURTHER ORDER OF COURT

☐ Permanently. Specify the authorizing law, rule, court order:

The moving party requests that when the sealing period expires, the filed matter should be (select one):

☒ Unsealed and placed in  
the public portion of the court file

☐ Destroyed

☐ Returned to the party or counsel for the party,  
as identified above

It is ORDERED and ADJUDGED that the proposed sealed document is hereby:

☒ Sealed

☒ NOT Sealed

☐ Other

The matter may be unsealed after:

☐ Conclusion of Trial

☐ Arrest of First Defendant

☐ Remain Sealed

☐ Case Closing

☐ Conclusion of Direct Appeal

☒ Other FURTHER ORDER OF

DONE and ORDERED at

*Miami*

Florida this 27<sup>th</sup> day of

AUGUST, 2003.

*[Signature]*  
United States District Judge

This document has been disposed of in the following manner \_\_\_\_\_ by \_\_\_\_\_

\_\_\_\_\_ on \_\_\_\_\_.